REMARKS/ARGUMENTS

Claims 4-10 are pending.

Claims 4-5 and 8-10 are rejected under 35 U.S.C. 101 as not being directed to statutory subject matter. Claims 4, 6, 7, 8, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hafez et al. (U.S. Patent No. 6,513,065), hereinafter referred to as Hafez, in view of Strandberg et al. (U.S. Patent No. 6,647,412), hereinafter referred to as Strandberg. Further, Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hafez et al. (U.S. Patent No. 6,513,065), hereinafter referred to as Hafez, in view of Strandberg et al. (U.S. Patent No. 6,647,412), hereinafter referred to as Strandberg and in view of Waclawski (U.S. Patent No. 6,377,907). Applicants respectfully traverse these rejections for the following reasons.

Claim Rejections under 35 USC § 101

Claims 4-5 and 8-10 are rejected under 35 USC 101 because the claimed invention is allegedly directed to non-statutory subject matter. It is alleged that the claims do not recite subject matter that produces any useful and tangible result. It is noted that the integer values by themselves do not accomplish any tangible result, nor are said integer values used to accomplish any tangible result, nor are said integer values embodied in any tangible result.

Applicant respectfully amends claims 4-5 and 8-10 to more clearly recite a computer implemented method using processor readable storage devices and processor readable code stored thereon for executing instructions on a computer system to calculate a Local Node Value (LNV) and a Composite Node Value (CNV) wherein said LNV and CNV allow a user to analyze network device performance and resource utilization in a peer-to-peer, real-time relationship, without a multi-tier polling data collection process and wherein said CNV and LNV values are displayed in a client interface device in real time and associated with a new network resource configuration and wherein one or more network elements are communicatively coupled in a different manner from a previous network resource configuration. Applicant respectfully requests that the § 101 rejection be withdrawn and amended claims 4-5 and 8-10 be therefore placed in allowance since the concerns relating to § 101 have been addressed with Applicant's amended claims.

Claim Rejections under 35 USC § 103

Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hafez et al. (U.S. Patent No. 6,513,065), hereinafter referred to as Hafez, in view of Strandberg et al. (U.S. Patent No. 6,647,412), hereinafter referred to as Strandberg.

Hafez, in combination with Strandberg, fails to teach or suggest the limitation of the LNV and CNV which allow a user to analyze network device performance and resource utilization in a peer-to-peer, real-time relationship, without a multi-tier polling data collection process via a central console, said peer-to-peer relationship comprising a peer-to-peer value including said CNV and said LNV and capable of changing dynamically, one to many, many to one, and bi-directional as recited in the applicant's amended claim 4 (emphasis added) wherein said CNV and LNV values are displayed in a client interface device and associated with a new network resource configuration wherein one or more network elements are communicatively coupled in a different manner from a previous network resource configuration.

Rather, Hafez, in combination with Strandberg, discloses a summarization that is collected at different time-points and summarized via a central console. As previously cited, for example, at column 12 lines 45-50, the cited combination does not combine different data belonging to different metrics at the same point in time to produce one measure in real time as found in Applicant's claimed subject matter. Also, as can be seen, for example, in Figures 8a-8b and at column 12 lines 60-65, the cited combination discloses a method for summarization of node values but not producing a single value based on the combinations of different metrics at a specific point in time to utilize to create a new network element configuration. Therefore, the cited combination falls short in passing node values peer-to-peer throughout a multi-tiered network in real-time. Further, it is not even possible to add the functionality found in Strandberg into the system of Hafez to yield a peer to peer, multi-tiered network correlation matrix to make network element changes in real time because the cited combination requires a summarization that is collected at different points in time and therefore requires an elapsed time but not at a given point in time as found in Applicants claimed subject matter. Nor does combining Strandberg with Hafez yield applicant's claimed functionality in amended claims 4-5 and 8-10.

The cited combination, unlike applicant's amended claims 4-5 and 8-10, does not allow a user to pass node values bi-directionally, in real-time, and adjusted for dynamic changes in the network because the very design of the cited combination teaches fundamentally different paradigms since a summarization requires an elapsed time and cannot possibly include an instantaneous point in time. It is argued that since the first moment in time could be summarized with no previous data, it could theoretically provide an instantaneous point. However, this argument must fail because such functionality could only be found at the first data point and not continuously as found in Applicant's claims 4-5 and 8-10. Further, nowhere in the cited references of Hafez nor Strandberg is there any suggestion or motivation to solve the problem of peer to peer communication in real time. Applicant's Specification, on the other hand, includes specific subject matter useful for solving these and other problems through the use of organizational and functional blocks to accomplish node value propagation through the use of intelligent objects that perform redirection processes. Nowhere does the cited combination deal with solving problems related to the typical limited directional chaining found in prior art systems. To the contrary, the cited combination actually teaches away from applicant's solution by disclosing subject matter directed to a peer-to peer communications method to exchange information with each other through multi-tier polling in one direction. It is argued that each agent could act as its own central console and therefore not require the centralized multi-tier polling. However, such a design would still require data to be gathered over a summarization of data in elapsed time rather than provide the instantaneous data points found in Applicant's claims 4-5 and 8-10. Further, the data available to a user to provide a new network element configuration would be fundamentally different data than that found in Applicant's real-time data adjusted for dynamic changes instantaneously.

Also, in regard to dependent claim 5, Hafez, in combination with Strandberg and further in combination with Waclawski does not teach or suggest the use of real-time correlation matrixes and weighted sums to produce the integer values for the same instantaneous point in time because such a system is fundamentally incapable of producing such a system. Nowhere are real-time correlation matrixes taught in the cited combination nor are the creation of new

network element configurations in response to instantaneous dynamic changes in the network taught. See, e.g. column 11, lines 15-20. Rather, the cited combination refers to 'statistical formulas', and 'modeling techniques' from 'queuing theory', which are general terms used in the art and further fundamentally require data gathered over an elapsed time to calculate. To the contrary, nowhere is a correlation matrix using real-time data in response to dynamic changes in the network taught or suggested in the cited combination. Nor would the combination of these references predictably yield such results because the system is fundamentally incapable of gathering such data. Also, in no way do these references teach or suggest "obtaining a plurality of characteristics or counters at a specific instantaneous point in time that are combined through correlation matrixes and weighted sums to produce the two integer values for the same point of time" and "measuring real-time network performance" as is recited in applicant's amended claim 5.

Also, Strandberg fails to remedy the deficiencies of Hafez previously discussed nor does Waclawski remedy the situation. In particular, Strandberg also fails to teach or suggest the limitations of "calculating the LNV of a server as an integer value through a combination of measured counters at the same instantaneous point in time" and of "obtaining a plurality of characteristics or counters at a specific point in time that are combined through correlation matrixes and weighted sums to produce the two integer values for the same point of time". and also "measuring real-time network performance." Therefore, whether or not it would be obvious to combine Hafez with Strandberg as alleged, such combination could not result in the presently claimed invention as recited in applicant's amended claims 4 and 5.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hafez et al. (U.S. Patent No. 6,513,065), hereinafter referred to as Hafez, in view of Strandberg et al. (U.S. Patent No. 6,647,412), hereinafter referred to as Strandberg and in view of Waclawski (U.S. Patent No. 6,377,907)., hereinafter referred to as Waclawski.

Although Waclawski discloses counters that are combined through correlation matrixes and weighted sums, nowhere does the cited combination of Hafez, Strandberg, and Waclawski recite collecting data via intelligent objects and measuring real-time behavior of

network components. To the contrary, the cited combination at best teaches correlation matrixes and weighted sums being updated over a period of time to reflect historical changes over the period of time. Waclawski further teaches commercially available collection agents, but nowhere in Waclawski or the incorporated by reference collection agent is real-time instantaneous data collection and measurement of network components disclosed nor suggested. Further, the cited combination actually teaches away from such a practice by emphasizing the sophistication of forecasting and analytical techniques to monitor performance, unlike applicant's claim 5 which recites the use of intelligent objects collecting data instantaneous in real-time to dynamically monitor network components through correlation matrixes and weighted sums. Applicant therefore kindly requests that the 103(a) rejection, in light of amended claim 5, be withdrawn.

Amended Claims 4-10 are presented herein and include additional limitations believed to be patentably distinct in view of the cited references. No new matter is added hereby.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,

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